

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

V.

LOUIS MANNA,

Defendant.

Crim. No. 88-cr-239-1 (PGS)

MEMORANDUM & ORDER

UNITED STATES OF AMERICA,

Plaintiff,

V.

RICHARD DESCISCIO,

Defendant.

Crim. No. 88-cr-239-2 (PGS)

MEMORANDUM & ORDER

Defendants Louis Manna and Richard Desciscio are federal prisoners serving lengthy prison sentences. They have each filed similar motions for writ of habeas corpus/motions to set aside judgment and sentence. (*See* ECF 25 & 26). Defendants rely on 28 U.S.C. § 2241 to support the portion of their motion seeking habeas relief and 18 U.S.C. § 3582(c)(1)(A)(i) to support the portion of their motion seeking to set aside their judgment and sentence.

Defendants seeking relief in their criminal action under § 3582(c)(1)(A)(i) is proper. *See United States v. Raia*, 954 F.3d 594, 596 (3d Cir. 2020). However, Defendants need to seek habeas relief by filing a new separate civil action and either paying the applicable \$5.00 filing fee, *see* L. Civ. R. App. K (noting filing fee for habeas corpus petitions is \$5.00), or submitting a complete application to proceed *in forma pauperis* in a habeas case. Defendants' failure to

satisfy these requirements necessitate this Court administratively terminating the portion of their motions seeking habeas relief. Defendants though may seek habeas relief by filing separate individual civil actions and either each paying the \$5.00 filing fee or each submitting a complete *in forma pauperis* application that accompanies their separate habeas petitions.

Defendant Desciscio has also filed a motion for bail pending the outcome of his habeas petition. (*See* ECF 27). However, given that Desciscio's request for habeas relief has been administratively terminated in this action, Desciscio's motion for bail pending habeas relief is denied without prejudice as there is no longer a habeas petition pending.

Accordingly, IT IS on this 17TH day of May, 2021;

ORDERED Defendants' motion for habeas relief/motion to set aside judgment and sentence (ECF 25 & 26) is administratively terminated in part; Defendants motion for habeas relief is administratively terminated; Defendants' motion to set aside judgment and sentence pursuant to § 3582(c)(1)(A)(i) remains and shall be decided by this Court in due course; and it is further

ORDERED Defendant Desciscio's motion for bail pending outcome of his habeas petition (ECF 27) is denied without prejudice.

s/Peter G. Sheridan
PETER G. SHERIDAN, U.S.D.J.